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April 26, 2005

Clerk of the Court Chelan County Superior Court 401 Washington Street P.O. Box 880 Wenatchee, WA 98807-0880

Re: Borders v. King County, et al.

Chelan County Superior Court Cause No. 05-2-00027-3

Dear Court Clerk:

I am e-filing a Stipulation and Proposed Protective Order Governing Certain Confidential Documents from Spokane County Auditor. Please present the Stipulated and Proposed Protective Order to Judge Bridges for his approval and signature. We will send the \$20.00 Ex Parte fee to you by mail today. Thank you for your assistance in this matter.

Rebecca S. Engrav

Very truly yours

RSE:sw

THE HONORABLE JOHN E. BRIDGES

SUPERIOR COURT FOR THE STATE OF WASHINGTON FOR CHELAN COUNTY

Timothy Borders et al.,

Petitioners,

V.

King County et al.,

Respondents,

and

Washington State Democratic Central Committee,

Intervenor-Respondent.

NO. 05-2-00027-3

STIPULATION AND [PROPOSED] PROTECTIVE ORDER GOVERNING CERTAIN CONFIDENTIAL **DOCUMENTS FROM SPOKANE COUNTY AUDITOR**

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STIPULATION

It is hereby stipulated and ordered by and among the undersigned parties to this action to become bound by the terms of this protective order ("the Order") as follows:

1. As used herein, "Producing Party" shall refer to any person acting on behalf of the Spokane County Auditor's office producing information, documents, discovery responses or testimony in connection with this litigation. The "Receiving Party" shall refer to any person named in Section D.5.

A. Definition of Confidential Information.

2. Confidential Information is the Date of Birth ("DOB") designation and Social Security number for each person that is listed in the Voter File maintained by the Producing Party.

B. Designation of Confidential Information.

3. The Producing Party shall designate hard copy documents containing Confidential Information by stamping or otherwise marking every printed page of the document "Confidential" or some similar language. If the documents containing Confidential Information are produced electronically, or in any other form, the Producing Party shall so mark the documents in any reasonable manner appropriate to the form in which they are produced.

C. Use of Confidential Information.

4. The Receiving Party will use the Confidential Information for purposes of this litigation, including investigation and discovery. The Receiving Party agrees not to use the Confidential Information for any purpose not related to this lawsuit. The Receiving Party agrees to destroy all documents containing Confidential Information at the termination of this litigation, including any appeals to this lawsuit, although to the extent the Court is a

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Phone: (206) 359-8000 Fax: (206) 359-9000 Receiving Party it may follow its normal procedures for the treatment of materials filed under seal.

D. Disclosure of Confidential Information.

- 5. Material that is designated "Confidential Information" may be disclosed solely to the following persons:
 - (a) Washington State Democratic Central Committee, and its employees and agents.
 - (b) Counsel for any Party, the paralegal, stenographic, clerical and secretarial personnel employed by such counsel; and
 - (c) Any third-party consultant, investigator, or independent expert retained in connection with this action. Any person in this category will be instructed to keep the Confidential Information confidential, will agree to do so, and will be bound by this Stipulation and Order, although a person in this category may, at the termination of this litigation, including any appeals to this lawsuit, return documents containing Confidential Information to the Receiving Party from which the documents were received for destruction rather than directly destroy the documents pursuant to Section C.4 of this Order.
 - (d) the Court, if filed under seal; or
 - (e) Court personnel including stenographic reporters engaged in such proceedings as are necessarily incident to preparation for trial, if filed under seal.
- 6. Any document filed with the Court, or otherwise made public, that includes Confidential Information shall be (1) disclosed with the Confidential Information redacted,

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STIPULATION AND [PROPOSED] PROTECTIVE ORDER - 3
[15934-0006/SL051150.167]

or (2) if the Confidential Information must be revealed to the Court, filed under seal and labeled as follows: "This Document Is Subject to a Protective Order Issued by the Court and May Not Be Examined or Copied Except in Compliance with that Order." Documents so labeled shall be kept by the Clerk under seal and shall be made available only to the Court or persons authorized by the terms of this Order to have access thereto.

E. Exceptions.

- 7. Nothing herein shall prohibit a Receiving Party from disclosing a document containing Confidential Information to the person the document identifies as an author or recipient of such document, or to any person (including third-party witnesses) for which prior approval for disclosure has been granted by the Producing Party. A Party's use for any purpose of its own documents, which that Party produces in this action, shall not be considered a violation of this Order. However, nothing herein is intended to modify the parties' respective statutory, contractual, or common law obligations regarding such information.
- 8. Notwithstanding any other provision of this Order to the contrary, the obligations of this Order shall not apply, or shall cease to apply, to any voter DOB information that is derived from documents other than the Voter File produced by the Producing Party (e.g., publicly available criminal or death records).
 - 9. The foregoing is without prejudice to the right of any Party:
 - to apply to the Court for a further protective order relating to any
 Confidential Information for use at trial or relating to any discovery in this litigation;
 - (b) to object to the production of documents it considers not subject to discovery; or

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(c) to apply to the Court for an order compelling production of documents or modification of this Order or for any order permitting disclosure of Confidential Information material beyond the terms of this Order.

F. Miscellaneous.

- 10. In the event anyone shall violate or threaten to violate any terms of this Order, the aggrieved Party may seek any remedy permitted by law, including but not limited to contempt, damages and injunctive relief, and it shall not be a defense to a request for injunctive relief that the aggrieved Party possesses an adequate remedy at law.
- All persons subject to the terms of this Order agree that this Court shall retain jurisdiction over them for the purpose of enforcing this Order.

G. Agreement to Be Bound.

12. This Order may be signed in counterpart by each Party's respective counsel and when signed shall become binding and effective as to each such Party. The Parties agree to be bound by the restrictions in this Order immediately upon signing by both Parties, but this Order will expire if a judge does not enter the Order by April 30, 2005. Upon such expiration, the Receiving Party will return the Confidential Information to the Producing Party and destroy any copies made of the Confidential Information.

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DATED: April 26, 2005.

PERKINS COIE LLP

By

Kevin J. Hamilton, WSBA # 15648 William C. Rava, WSBA # 29948 1201 Third Avenue, Suite 4800 Seattle, WA 98101

Attorneys for Intervenor-Respondent Washington State Democratic Central Committee

SPOKANE COUNTY PROSECUTING ATTORNEY

SPEIDEL LAW FIRM

Russell J. Speidel, WSBA # 12838 7 North Wenatchee Avenue, Suite 600 Wenatchee, WA 98807

JENNY A. DURKAN

Jenny A. Durkan, WSBA # 15751 c/o Perkins Coie LLP 1201 Third Avenue, Suite 4800 Seattle, WA 98101-3099

By Steve Kinn by RSE byemail authority

Steve Kinn, WSBA # 12984 Senior Deputy Prosecuting Attorney

Attorneys for Spokane County and Spokane County Auditor

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<u>ORDER</u>				
Pursuant to the stipulation of the parties, as detailed above, it is so ordered.				
DATED this day of, 2	2005.			
Ī	Hon. John E. Bridges, Superior Court Judge			
Presented by:				
PERKINS COIE LLP Attorneys for Intervenor-Respondent By Kevin J. Hamilton, WSBA # 15648 William C. Rava, WSBA # 29948				
Approved as to form, notice of presentation waived:	·			
SPOKANE COUNTY PROSECUTING ATTORNEY				
By Steve King by PGE by em	il authority			

Ву_ Steve Kinn, WSBA# 12984

Senior Deputy Prosecuting Attorney

Attorneys for Spokane County and Spokane **County Auditor**

THE HONORABLE JOHN E. BRIDGES

SUPERIOR COURT OF THE STATE OF WASHINGTON FOR CHELAN COUNTY

Timothy Borders et al.,

Petitioners,

NO. 05-2-00027-3

CERTIFICATE OF SERVICE

V.

King County et al.,

Respondents,

and

Washington State Democratic Central Committee,

Intervenor-Respondent.

The undersigned is a citizen of the United States and resident of the State of Washington, is over the age of eighteen and is not a party to the within action.

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The following documents were caused to be served:

- Stipulation and (Proposed) Protective Order Governing Certain Confidential
 Documents from Spokane County Auditor;
- 5. Certificate of Service.

These documents were served in the manner described below.

Steve Kinn	X	E-Service Via E-Filing.com
Senior Dep. Prosecuting Attorney		Via Electronic Mail
Spokane County		Via Overnight Mail
Public Safety Building, 1st Floor		Via U.S. Mail, 1st Class, Postage
1100 West Mallon		Prepaid
skinn@spokanecounty.org		Via Facsimile
Thomas F. Ahearne	X	E-Service Via E-Filing.com
Foster Pepper & Shefelman PLLC		Via Electronic Mail
1111 Third Avenue, Suite 3400		Via Overnight Mail
Seattle, WA 98101-3299		Via U.S. Mail, 1 st Class, Postage
Email: ahearne@foster.com		Prepaid
Attorneys for Respondent Secretary of State		Via Facsimile
Sam Reed		
Jeffrey T. Even, Assistant Attorney General	X	E-Service Via E-Filing.com
P.O. Box 4100		Via Electronic Mail
Olympia, WA 98504-0100		Via Overnight Mail
Email: jeffe@atg.wa.gov		Via U.S. Mail, 1st Class, Postage
Attorneys for Respondent Secretary of State		Prepaid
Sam Reed		Via Facsimile

1 2 3 4 5 6 7 8 9	Robert Maguire Harry J.F. Korrell Davis Wright Tremaine LLP 2600 Century Square, 1501 Fourth Avenue Seattle, WA 98101 Email: robmaguire@dwt.com; harrykorrell@dwt.com Attorneys for Petitioners	E-Service Via E-Filing.com Via Electronic Mail Via Overnight Mail Via U.S. Mail, 1 st Class, Postage Prepaid Via Facsimile
11 12 13 14 15 16 17 18	Richard Shepard John S. Mills 818 S. Yakima Avenue, Suite 200 Tacoma, WA 98405 Email: richard@shepardlawoffice.com Attorneys for the Libertarian Party	E-Service Via E-Filing.com Via Electronic Mail Via Overnight Mail Via U.S. Mail, 1 st Class, Postage Prepaid Via Facsimile
19 20 21 22 23 24 25 26 27	Gary A. Reisen Chelan County Prosecutor's Office P.O. Box 2596 Wenatchee, WA 98807-2596 Email: Gary Riesen@co.chelan.wa.us Attorneys for Respondents Chelan County and Chelan County Auditor	E-Service Via E-Filing.com Via Electronic Mail Via Overnight Mail Via U.S. Mail, 1 st Class, Postage Prepaid Via Facsimile
28 29 30 31 32 33 34 35 36 37	Timothy S. O'Neill, Klickitat County Prosecuting Attorney Shawn N. Anderson, Klickitat County Prosecuting Attorney 205 S. Columbus Avenue, MS-CH-18 Goldendale, WA 98620 Email: timo@co.klickitat.wa.us Attorneys for Respondent Klickitat County	E-Service Via E-Filing.com Via Electronic Mail Via Overnight Mail Via U.S. Mail, 1 st Class, Postage Prepaid Via Facsimile
38 39 40 41 42 43 44 45 46	Barnett N. Kalikow Kalikow & Gusa, PLLC 1405 Harrison Ave NW, Suite 207 Olympia, WA 98502 Email: barnett.kalikow@gte.net Attorneys for Respondent Klickitat County Auditor	E-Service Via E-Filing.com Via Electronic Mail Via Overnight Mail Via U.S. Mail, 1 st Class, Postage Prepaid Via Facsimile

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L. Michael Golden, Senior Dep. Pros. Atty. Office of the Lewis County Prosecuting Attorney 360 NW North Street Chehalis, WA 98532-1900 Email: lmgolden@co.lewis.wa.us Attorneys for Respondent Lewis County Auditor		E-Service Via E-Filing.com Via Electronic Mail Via Overnight Mail Via U.S. Mail, 1 st Class, Postage Prepaid Via Facsimile
Gordon Sivley Michael C. Held Snohomish County Prosecutors Office 2918 Colby, MS 504 Everett, WA 98201 Email: (gsivley@co.snohomish.wa.us; mheld@co.snohomish.wa.us) Attorneys for Respondents Snohomish County and Snohomish County Auditors		E-Service Via E-Filing.com Via Electronic Mail Via Overnight Mail Via U.S. Mail, 1 st Class, Postage Prepaid Via Facsimile
	on on Ap	
	Office of the Lewis County Prosecuting Attorney 360 NW North Street Chehalis, WA 98532-1900 Email: lmgolden@co.lewis.wa.us Attorneys for Respondent Lewis County Auditor Gordon Sivley Michael C. Held Snohomish County Prosecutors Office 2918 Colby, MS 504 Everett, WA 98201 Email: (gsivley@co.snohomish.wa.us mheld@co.snohomish.wa.us) Attorneys for Respondents Snohomish County and Snohomish County Auditors I declare under penalty of perjury that	Office of the Lewis County Prosecuting Attorney 360 NW North Street Chehalis, WA 98532-1900 Email: Imgolden@co.lewis.wa.us Attorneys for Respondent Lewis County Auditor Gordon Sivley Michael C. Held Snohomish County Prosecutors Office 2918 Colby, MS 504 Everett, WA 98201 Email: (gsivley@co.snohomish.wa.us: mheld@co.snohomish.wa.us) Attorneys for Respondents Snohomish County and Snohomish County Auditors I declare under penalty of perjury that the fore certificate was executed in Seattle, Washington on Ap

CERTIFICATE OF SERVICE - 4